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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,905	10/23/2006	Masaru Kariyama	14010-000008/US	2366

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER

GEBREMARIAM, SAMUEL A

ART UNIT	PAPER NUMBER
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2811

MAIL DATE	DELIVERY MODE
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12/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,905	Applicant(s) KARIYAMA, MASARU	
	Examiner SAMUEL A. GEBREMARIAM	Art Unit 2811	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/14/06;12/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-5 drawn to a species 1. is acknowledged. Claims 6-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/04/09.

Drawings

2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.
3. Figures 3 and 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what the structural relation ship is between the four different directions are directions wherein a first direction is a direction parallel to the channel width direction and the other three directions have incident angles of 90 degree, 180

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degree and 270 degree, respectively, relative to the first direction and the semiconductor device.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by admitted prior art (APA).

Regarding claim 1, APA teaches (fig. 3) semiconductor device comprising: a semiconductor substrate of a first conductivity type (1) wherein an element isolation region (8) is formed; a gate electrode (3) formed above the semiconductor substrate with a gate insulating film (2) placed therebetween; a sidewall spacer (14), made of an insulating film, arbitrarily formed on the sidewall of the gate electrode; a drift (6) region of a second conductivity type provided with a low concentration region (specification, page 2, lines 6-15) formed in the semiconductor substrate under, at least, one edge side in the channel length direction of the gate electrode; a high concentration region (4,5) of the second conductivity type surrounded by the drift region (fig. 3, page 1, lines 17-25), with the exception of the low concentration region; an interlayer insulating film

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(14) formed over the entire surface of the semiconductor substrate; and a contact hole (fig. 4c) as well as a metal wire (15) formed in a predetermined portion

The limitation that the drift region of the second conductivity type provided with the low concentration region is a region formed by means of impurity ion implantation with predetermined implantation angles respect to a surface of the semiconductor substrate and with four different directions, the semiconductor substrate has a trench formed by means of etching using a mask constituted the gate electrode and the sidewall spacer arbitrarily formed, and the drift region and the high concentration region are formed in the trench and the implantation angle is from 30.degree to 70 degree are considered a product-by-process claim. “[E]ven though product-by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

With regard to claim 5, as best the examiner is able to ascertain the claimed invention, APA, the limitation the four different directions are directions wherein a first direction is a direction parallel to the channel width direction and the other three directions have incident angles of 90.degree., 180.degree and 270.degree., respectively, relative to the first direction considered a product-by-process claim. “[E]ven though product-by process claims are limited by and defined by the process,

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determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding claim 3, APA teaches the entire claimed structure of claim 1 above including the drift region of the second conductivity type provided with a low concentration region is formed on both ends in the channel length direction of the gate electrode, and the high concentration regions of the second conductivity type are formed as a source region (4) and a drain region (5) in the drift region with the exception of the low concentration region (fig. 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel A Gebremariam whose telephone number is (571) 272-1653. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Gurley can be reached on (571) 272-1670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Samuel A Gebremariam/
Examiner, Art Unit 2811

/SAG/
December 20, 2009